

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

URIEL MARCUS, BENEDICT
VERCELES, and Others Similarly
Situated,

No. C 14-03824 WHA

Plaintiffs,

v.

**REQUEST FOR
ADDITIONAL BRIEFING**

APPLE INC.,

Defendant.

One of the new and potentially important changes in the proposed pleading is the overheating safety concern. One example is given in the email appended as Exhibit 2. The pleading asserts that several absent class members have told counsel similar things (PAC ¶ 51).

By NOON on **WEDNESDAY MARCH 4**, plaintiffs' counsel shall specify their best detail as to these other examples of injuries to absent class members, citing the same level of detail as in the email. Plaintiffs' counsel shall also explain why the pleading does not set forth a technical analysis of the alleged defect, since before suing, an expert could have examined a unit and analyzed the extent to which the heat sink and fan are substandard.

By NOON on **THURSDAY MARCH 5**, both sides shall file memos up to ten pages (double spaced, no footnotes or attachments) setting forth the law on the extent to which a technical analysis should be required in a pleading like this and analyzing the extent to which a single

1 incident involving a stranger to the litigation can be plausibly deemed to mean the units
2 purchased by our two plaintiffs had the same problem. Put differently as to the latter point, the
3 Court is concerned that we should perhaps not read too much into a single, one-off incident.
4 What is the law on this at the Rule 12 stage? And, a recent decision by Judge Virginia Phillips,
5 *Sater et al., v. Chrysler Group LLC.*, No. EDCV 14-00700-VAP, 2015 WL 736273, at *6–7
6 (C.D. Cal. Feb. 20, 2015), discusses the significance of *Mexia*. Please explain the relevance of
7 the decision by Judge Virginia Phillips to our case and include this discussion in the memo due
8 on March 5.

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10 **IT IS SO ORDERED.**

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12 Dated: March 2, 2015.

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14 _____
15 WILLIAM ALSUP
16 UNITED STATES DISTRICT JUDGE
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